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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,195	12/20/2001	Daniel Tunkelang	109878-125	9651

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EXAMINER

LE, MIRANDA

ART UNIT PAPER NUMBER

2177

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/027,195	Applicant(s) TUNKELANG, DANIEL	
	Examiner Miranda Le	Art Unit 2177	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The amended claim 35 would require further consideration and search.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Amendment not in compliance with 37 CFR 1.121 (c).

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.


Claim(s) objected to: None.

Claim(s) rejected: 1-39.

Claim(s) withdrawn from consideration: None.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 08/26/2004.
10. ☐ Other: _____


GRETTA ROBINSON


Miranda Le
September 14, 2004

Continuation of 5. does NOT place the application in condition for allowance because:

(a) Amendment not in compliance with 37 CFR 1.121 (c).

(b) Furthermore, Applicants' arguments do not overcome the final rejection.

Applicant's arguments have been fully considered but they are not persuasive. The Examiner has thoroughly reviewed Applicants' arguments but firmly believes that the cited reference reasonably and properly meet the claimed limitation. Applicants are reminded that the Examiner is entitled to give the broadest reasonable interpretation to the language of the claimed as explained below. The Examiner is not limited to Applicants' definition which is not specifically set forth in the claims. In re Tanaka et al., 193 USPQ 139, (CCPA) 1977.

With regards to claim 1, Applicant argues that the Fish reference does not teach or suggest the elements of claim 1, on the contrary, Fish teaches "obtaining a query composed of a first set of one or more properties" at col. 4, lines 1-42, col. 6, lines 21-61. Fish teaches the query composed of the first set of properties as the user has selected parameters "make", "model", "price", "year" (i.e. a set of properties), (col. 6, lines 47-49).

Fish teaches "obtaining a result based on applying a distance function to the query and an item in the collection having a second set of one or more properties" at col. 4, lines 1-42, col. 5, lines 26-55, col. 6, lines 21-61, col. 9, lines 1-59, Figs. 3B-C. It should be noted that the second set of properties corresponds to the entire properties of the item in the database 10 (i.e. the collection of items). More specifically, the second set of properties corresponds to the union of the four sets in Fig. 1 (i.e. 2nd set of properties = 20 U 30 U 40 U 50).

Fish teaches "wherein obtaining a result includes determining a third set of properties common to the first set of one or more properties and the second set of one or more properties" at col. 4, lines 1-42, col. 6, lines 1-19, col. 9, lines 1-59, col. 5, lines 47-67. Specifically, Fish teaches "depending on the intersection between information in the database and the data entered into the description entry field 134, there may be an unwieldy number of data rows displayed (col. 5, lines 56-59). Examiner equates the "information" as the first set of properties, "data entered" as the second set of properties, and the third set of properties is seen as the intersection (i.e. common properties) of the first and the second set of properties.

Fish teaches "the distance function determines a distance between the query and an item in the collection based on the number of items in the collection that are associated with all of the properties in the third set of properties" at col. 4, lines 1-42, col. 5, lines 46-56, col. 9, line 1 to col. 10, line 31, Figs. 3B-C. It is noted that the distance between the query and the item in the collection (database) correspond to the number of item (i.e. number 98 at row 137C in Fig. 3A) associated with the third set of properties (common properties).

Therefore, the claim language as presented is still read on by the Fish reference at the cited paragraph in the claim rejections, the Fish system cannot be distinguished from the claim invention since Fish teaches all such elements as discussed above.

Accordingly, the claimed invention as represented in the claims does not represent a patentable over the art of record.